REMARKS

Entry of the claim amendments does not introduce new matter into the disclosure. Excipients suitable for human administration (claims 13 and 15) are described in the specification *inter alia* on page 9, line 23 to page 10, line 21.

These amendments are made to obtain coverage for certain aspects of the invention that are of current commercial interest. Applicant reserves the right to introduce claims to subject matter previously claimed or described in the disclosure in this or any other application.

Election between polypeptides and nucleic acids

The Restriction Requirement divides the claimed invention between compositions of polypeptides (Groups I and III) and nucleic acids (Groups II and IV).

Applicant hereby elects compositions comprising nucleic acids (Groups II and IV) *without traverse.*

Election between compositions and methods

The Restriction Requirement divides the claimed invention between immunogenic compositions (Groups I and II, claims 13-24), and methods of eliciting an immune response (Groups III and IV, claims 1-12).

Applicant hereby elects compositions, but respectfully *traverses* this aspect of the restriction. The Office Action acknowledges that these two embodiments of the invention are related as products and methods of processes of use. Claims in the product group previously indicated that they were suitable for human administration. They have now been amended to refer explicitly to pharmaceutical excipients, and to use for eliciting an immune response in accordance with claims 1 and 4. When formulated as a pharmaceutical composition, the skilled user would not seek to use an immunogenic composition claimed in this application for drug screening or for hybridization assays.

Furthermore, in determining whether a composition is patentable over the prior art, the question is not whether a compound *could* be used for a particular purpose, but whether *all the components of the composition* are taught or suggested by the prior art. Thus, any suggested use of TERT sequences for drug screening or hybridization if made in the prior art still does not suggest the formulation of TERT sequences as a pharmaceutical composition. The proposed modification or additional component cannot alter the prior art composition in a manner that is inconsistent with its intended purpose. See MPEP § 2143.01(V).

Accordingly, a search for the use of TERT of another species for purposes of eliciting an immune response in an immunological condition would be suitable in examination of both the product and method claims, and can be done without undue burden on the Examiner. Furthermore, upon determination that the product claims are free of prior art, method claims incorporating the same limitations are rejoinable into the same group, in accordance with MPEP § 821.04.

Withdrawal of the restriction between the claimed compositions and methods is respectfully requested.

Election between different TERT sequences

The Restriction Requirement divides the claimed invention between SEQ. ID NOs:4, 6, 8, 10, and 12. It states that these sequences are independent invention, not species.

Applicant hereby elects SEQ. ID NO:4 (mouse TERT) for examination on the merits. Applicant does not traverse the finding that SEQ. ID NOs:4, 6, 8, 10, and 12 are patentably distinct aspects of the invention recited in the other claims.

However, applicant does traverse the assertion that this is not a species restriction. Method claims 1 and 4, and product claims 13 and 15 clearly link SEQ. ID NOs:4, 6, 8, 10, and 12 as a genus of TERT sequences of a non-human mammal.

Applicant respectfully requests that the Office confirm that the division between the listed claims *is* a division by species that fall within the genus claims.

Election between different immunization promoting factors

The Restriction Requirement divides dependent claims 12 and 22 between the immunization promoting factors IL-12, GM-CSF, IL-2, and MPL.

Applicant hereby elects GM-CSF *without traverse*. This is a species election, since the other claims do not require use of any of these factors, and so are generic to this aspect of the restriction..

Conclusion

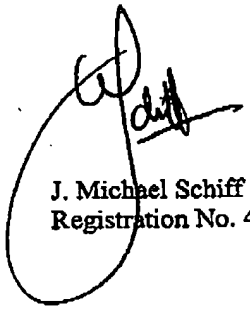
As a result of the elections referred to above, Group II, SEQ. ID NO:4, and GM-CSF are elected for prosecution on the merits. As explained above, certain aspects of the restriction have been traversed, while others have not.

Applicant respectfully requests that aspects of the restriction that have been traversed in this Response be withdrawn, and that the application proceed to examination on the merits, in view of the amendment and remarks made herein.

In the event the Examiner determines that an interview would facilitate prosecution of this application, he is invited to contact applicant's representative at the telephone number indicated below.

Should the Patent Office determine that an extension of time or any other relief is required for further consideration of this application, applicant hereby petitions for such relief, and authorizes the Commissioner to charge the cost of such petitions and other fees due in connection with the filing of these papers to Deposit Account No. 07-1139, referencing the docket number indicated above.

Respectfully submitted,



J. Michael Schiff
Registration No. 40,253

GERON CORPORATION
230 Constitution Drive
Menlo Park, CA 94025
Telephone: (650) 473-7715
Fax: (650) 473-8654

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geron

GERON CORPORATION
230 Constitution Drive
Menlo Park, CA 94025
Phone: (650) 473-7700
Fax: (650) 473-8654

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